

## **REMARKS**

Claims 1-4 and 6-11 are pending in the application. Applicants have amended claims 1-4, and 6-10, and cancelled claim 5 from further consideration in this application. Applicants are not conceding in this application that those claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

### **CLAIM REJECTIONS UNDER 35 USC §102**

The Office Action has rejected claims 1-4 and 6-11 under 35 USC 102(e) as being anticipated by Kolodner, et al. (6,675,379).

For a reference to anticipate a claim, each element and limitation of the claim must be found in the reference. *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994). Claims 1 and 10 have been amended to include the limitation of claim 5. Claim 1, as amended, is not anticipated by Kolodner, et al., because Kolodner does not teach or suggest using a mixture model to combine the plurality of the properties of each live object in a non-linear manner. See Office Action at page 5. Applicant respectfully requests that the rejection to claim 1 be withdrawn.

Claims 2 – 9 are dependent on claim 1 and are therefore not anticipated by Kolodner for at least the same reasons that claim 1 is not anticipated by Kolodner.

Claim 10, which is a computer program product counterpart to claim 1, has been amended to also include the limitation of claim 5 and is therefore not anticipated by Kolodner for

at least the same reasons that claim 1 is not anticipated by Kolodner.

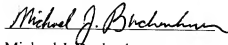
Claim 11, a machine counterpart to claim 1, has been amended to include the limitation of claim 5 and thus is not anticipated by Kolodner because Kolodner does not teach or suggest a “mixture model for combining a plurality of properties of each object in a non-linear manner.”

### **CLAIM REJECTIONS UNDER 35 USC §103**

The Office Action rejected claim 5 under 35 USC §103(a) as being unpatentable over Kolodner in view of Andreasson (US Pub 2004/0073764). 35 USC §103(c)(1) provides that: “Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. “ Applicant submits that the Kolodner patent and the instant patent application were owned by the same entity or subject to an obligation of assignment to the same entity (International Business Machines Corporation) at the time the claimed invention was made. Therefore, the rejection under §103 should be withdrawn.

For the foregoing reasons, Applicant respectfully requests allowance of the pending claims.

Respectfully submitted,

A handwritten signature in black ink, reading "Michael J. Buchenhorner", written over a horizontal line.

Michael J. Buchenhorner  
Reg. No. 33,162

Date: November 13, 2007

Michael Buchenhorner, P.A.  
8540 S.W. 83 Street  
Miami, Florida 33143  
(305) 273-8007 (voice)  
(305) 595-9579 (fax)